

**TITLE 4. PROFESSIONS AND OCCUPATIONS****CHAPTER 16. ARIZONA MEDICAL BOARD**

(Authority: A.R.S. § 32-1401 et seq.)

*Editor's Note: The name of the Allopathic Board of Medical Examiners was changed to the Arizona Medical Board by Laws 2002, Ch. 254, § 9, effective August 22, 2002 (Supp. 03-2).*

**ARTICLE 1. GENERAL PROVISIONS**

*Article 1, consisting of Sections R4-16-101 through R4-16-106, adopted effective June 1, 1984.*

*Former Article 1, consisting of Sections R4-16-01 through R4-16-16, repealed effective June 1, 1984 (Supp. 84-3).*

## Section

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- R4-16-102. Rehearing or Review of Board Decision
- R4-16-103. Licensure by Endorsement
- R4-16-104. Time-frames for License, Permit, or Registration
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*Article 2, consisting of Sections R4-16-201 through R4-16-205, adopted effective September 22, 1995 (Supp. 95-3).*

## Section

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## Section

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**ARTICLE 1. GENERAL PROVISIONS****R4-16-101. Continuing Medical Education**

- A.** A physician holding an active license to practice medicine in this state shall complete 40 credit hours of the continuing medical education required by A.R.S. § 32-1434 during the two calendar years preceding biennial registration. A physician may not carry excess hours over to another two-year cycle. One hour of credit is allowed for each clock hour of participation in continuing medical education activities, unless otherwise designated in subsection (B).
- B.** A physician may claim continuing medical education for the following:
  1. Participating in an internship, residency, or fellowship at a teaching institution approved by the American Medical Association, the Association of American Medical Colleges, or the American Osteopathic Association. A physician may claim one credit hour of continuing medical education for each one day of training in a full-time approved program, or for a less than full-time training on a pro rata basis. In this subsection teaching institutions define "full-time."
  2. Participating in an education program for an advanced degree in a medical or medically-related field in a teaching institution approved by the American Medical Association, the Association of American Medical Colleges, or the American Osteopathic Association. A physician may claim one credit hour of continuing medical education for each one day of full-time study or less than a full-time study on a pro rata basis. In this subsection teaching institutions define "full-time".
  3. Participating in full-time research in a teaching institution approved by the American Medical Association, the Association of American Medical Colleges, or the American Osteopathic Association. A physician may claim one credit hour of continuing medical education for each one day of full-time research, or less than full-time research on a pro rata basis. In this subsection teaching institutions define "full-time".
  4. Participating in an education program certified as Category 1 by an organization accredited by the Accreditation Council for Continuing Medical Education, 515 North State Street, Suite 2150, Chicago, Illinois 60610.
  5. Participating in a medical education program designed to provide understanding of current developments, skills, procedures, or treatments related to the practice of medicine, that is provided by an organization or institution accredited by the Accreditation Council for Continuing Medical Education.
  6. Serving as an instructor of medical students, house staff, other physicians, or allied health professionals from a hospital or other health care institution with a formal training program, if the instructional activities provide the instructor with understanding of current develop-

- ments, skills, procedures, or treatments related to the practice of allopathic medicine.
7. Publishing or presenting a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of allopathic medicine. The physician may claim one credit hour for each hour preparing, writing, and presenting materials:
    - a. Actually published or presented; and
    - b. After the date of publication or presentation.
  8. A credit hour may be earned for any of the following activities that provide an understanding of current developments, skills, procedures, or treatments related to the practice of allopathic medicine:
    - a. Completing a medical education program based on self-instruction that uses videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, or computers;
    - b. Reading scientific journals and books;
    - c. Preparing for specialty board certification or recertification examinations;
    - d. Participating on a staff or quality of care committee, or utilization review committee in a hospital, health care institution, or government agency.
  - C. If a physician holding an active license to practice medicine in this state fails to meet the continuing medical education requirements under subsection (A) because of illness, military service, medical or religious missionary activity, or residence in a foreign country, upon written application, shall grant an extension of time to complete the continuing medical education.
  - D. The Board shall mail to each physician a license renewal form that includes a section regarding continuing medical education compliance. The physician shall sign and return the form certified under penalty of perjury that the continuing medical education requirements under subsection (A) are satisfied for the two-calendar-year period preceding biennial renewal. Failure to receive the license renewal form under subsection (A) shall not relieve the physician of the requirements of subsection (A). The Board may randomly audit a physician to verify compliance with the continuing medical education requirements under subsection (A).
  - B. If the Board makes a specific finding that it is necessary for a particular decision to take immediate effect to protect the public health and safety, or that a rehearing or review of the Board's decision is impracticable or contrary to the public interest, the decision shall be issued as a final decision without opportunity for rehearing or review and shall be a final administrative decision for purposes of judicial review.
  - C. A written response to a motion for rehearing or review may be filed and served within 15 days after service of the motion for rehearing or review. The Board may require the filing of written briefs upon any issues raised in the motion and may provide for oral argument.
  - D. A rehearing or review of a decision may be granted for any of the following reasons materially affecting a party's rights:
    1. Irregularity in the administrative proceedings by the Board, its hearing officer, or the prevailing party, or any ruling or abuse of discretion, that deprives the moving party of a fair hearing;
    2. Misconduct of the Board, its hearing officer, or the prevailing party;
    3. Accident or surprise that could have not been prevented by ordinary prudence;
    4. Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the original hearing;
    5. Excessive or insufficient penalties;
    6. Error in the admission or rejection of evidence, or other errors of law that occurred at the hearing;
    7. The decision is the result of a passion or prejudice; or
    8. The decision of findings of fact or decision is not justified by the evidence or is contrary to law.
  - E. A rehearing or review may be granted to all or any of the parties and on all or part of the issues for any of the reasons in subsection (D). The Board may take additional testimony, amend findings of fact and conclusions of law, or make new findings and conclusions, and affirm, modify, or reverse the original decision.
  - F. A rehearing or review, if granted, shall be a rehearing or review only of the question upon which the decision is found erroneous. An order granting a rehearing or review shall specify with particularity the grounds for the order.
  - G. Not later than 15 days after a decision is issued, the Board of its own initiative may order a rehearing or review for any reason that it might have granted a rehearing or review on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the Board may grant a timely-served motion for a rehearing or review, for a reason not stated in the motion. In either case, the Board shall specify in the order the grounds for the rehearing or review.
  - H. If a motion for rehearing or review is based upon affidavits, they shall be served with the motion. The opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days either by the Board for good cause, or by the parties by written stipulation. The Board may permit reply affidavits.

#### Historical Note

Former Rule 12. Former Section R4-16-01 repealed, new Section R4-16-101 adopted effective June 1, 1984 (Supp. 84-3). Section repealed, new Section renumbered from R4-16-103 effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3).

#### R4-16-102. Rehearing or Review of Board Decision

- A. A motion for rehearing or review shall be filed as follows:
  1. Except as provided in subsection (B), any party in a contested case may file a written motion for rehearing or review of the Board's decision, specifying generally the grounds upon which the motion is based.
  2. A motion for rehearing or review shall be filed with the Board and served no later than 30 days after the decision of the Board.
  3. For purposes of this Section, "service" has the same meaning as in A.R.S. § 41-1092.09.
  4. For purposes of this Section, a document is deemed filed when the Board receives the document.
  5. For purposes of the Section, the terms "contested case" and "party" shall have the same meaning as in A.R.S. § 41-1001.

#### Historical Note

Former Rule 16. Former Section R4-16-02 repealed, new Section R4-16-102 adopted effective June 1, 1984 (Supp. 84-3). Section repealed, new Section renumbered from R4-16-106 effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 1881, effective May 3, 2000 (Supp. 00-2).

#### R4-16-103. Licensure by Endorsement

- A. An applicant for licensure by endorsement may make a written request of the Board, for an extension of the seven-year period

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provided by A.R.S. § 32-1426(B)(4) to pass one of the combinations of specified examinations. The applicant shall submit the written request to the Board with evidence that:

1. The applicant meets all requirements for licensure and for taking the United States Medical Licensing Examination,
2. The combination of examinations cannot be passed in the time required by law, and
3. The applicant is:
  - a. A full-time student in an approved school of medicine, as defined in A.R.S. § 32-1401(5);
  - b. A participant in an approved hospital internship, residency, or clinical fellowship program, as defined in A.R.S. § 32-1401(4); or
  - c. A full-time student in a recognized medical degree program, as defined in subsection (E), concurrently or consecutively with medical school or postgraduate training.
- B.** If the Board determines that the applicant satisfies the requirements of subsection (A), the Board shall grant the extension.
- C.** An extension shall not exceed 10 years from the date on which the applicant successfully completes the first part of the combination of examinations.
- D.** If the Board denies the request for extension, the applicant may request a hearing by filing a written notice with the Board no later than 30 days after receipt of notice of the Board's action. A hearing shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
- E.** In this Section, a "recognized degree program" means an education program offered by a college or university approved by the New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges or accredited by the United States Department of Education, Council on Postsecondary Accreditation, Association of American Medical Colleges, the Association of Canadian Medical Colleges, or the American Medical Association.
- F.** An applicant for licensure by endorsement under A.R.S. § 32-1426(C) who provides proof of passing an examination specified in A.R.S. § 32-1426(A) more than ten years before the date of filing shall:
  1. Hold a current certification in an American Board of Medical Specialty ("ABMS"), or
  2. Take and pass the Special Purposes Examination (SPEX).

**Historical Note**

Former Rule 17; Amended effective August 19, 1977 (Supp. 77-4). Former Section R4-16-03 repealed, new Section R4-16-103 adopted effective June 1, 1984 (Supp. 84-3). Section R4-16-103 renumbered to R4-16-101 effective September 22, 1995 (Supp. 95-3). New Section adopted effective May 20, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3).

**R4-16-104. Time-frames for Licenses, Permits and Registrations**

- A.** For each type of license, permit, or registration issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is listed in Table 1.
- B.** For each type of license, permit, or registration issued by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is listed in Table 1 and begins on the date the Board receives an application and all required documents and information.

1. If the required application is not administratively complete, the Board shall send to the applicant, a deficiency notice.
  - a. The notice shall state each deficiency and the information needed to complete the application and documents.
  - b. Within the time provided in Table 1 for response to a deficiency notice, beginning on the date of mailing of a deficiency notice, an applicant shall submit to the Board the missing documents and information specified in the notice. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing documentation and information.
  - c. Under A.R.S. § 32-1427(E), an applicant for an initial license by examination or endorsement who disagrees with the deficiency notice may request a hearing before the Board at its next regular meeting if there is time at that meeting to hear the matter. The Board shall not delay a requested hearing beyond one regularly scheduled meeting. At any hearing granted under this subsection, the applicant shall have the burden of proof to demonstrate that the alleged deficiencies do not exist.
  - d. Under A.R.S. § 32-1427(F), if an applicant for initial license by examination or endorsement does not submit the missing documents and information indicated in the deficiency notice within the time-frame specified in subsection (B)(1)(b), the Board shall deem the application withdrawn.
2. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
3. If the application and submitted documents and information do not contain all of the components required by statute and rule, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.
- C.** For each type of license, permit, or registration issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is listed at Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.
  1. During the substantive review time-frame, the Board may make one comprehensive written request for additional information. The applicant shall submit to the Board the additional information identified by the comprehensive written request within the time provided in Table 1, beginning on the date of mailing of the comprehensive written request for additional information. The time-frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the additional information.
  2. The Board shall issue a written notice of denial of license, permit, or registration if the Board determines that the applicant does not meet all of the substantive criteria required by statute and rule for a license, permit, or registration.
  3. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit the requested additional information within the time-frame in Table 1.

4. If the applicant meets all of the substantive criteria required by statute and rule for license, permit, or registration, the Board shall issue a license, permit, or registration to the applicant.

#### Historical Note

Former Rule 18. Former Section R4-16-04 repealed, new Section R4-16-104 adopted effective June 1, 1984 (Supp. 84-3). Section repealed effective September 22, 1995 (Supp. 95-3). New Section adopted effective January 20, 1998 (Supp. 98-1).

#### R4-16-105. Time-frames for License Renewal

- A. For renewal of licensure, the overall time-frame described in A.R.S. § 41-1072(2) is 90 calendar days.
- B. For renewal of licensure, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is 90 calendar days and begins on the date the Board receives the renewal application.
  1. If the required application is not administratively complete, the Board shall send to the applicant a deficiency notice. The notice shall state each deficiency and the documents and information needed to complete the renewal application.
  2. The 90-day time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the needed documents and information.
  3. If an applicant does not submit a complete renewal application before May 1, the applicant's license expires, except that the license of a physician who does not renew the license and who has been advised in writing that an investigation is pending at the time the license is due to expire does not expire until the investigation is resolved. The license of a physician for whom an investigation is pending is suspended on the date it would otherwise expire and the physician shall not practice in this state until the investigation is resolved.
  4. If the submitted application is administratively complete, the Board shall send a written notice of renewal to the applicant.

#### Historical Note

Former Rule 19. Former Section R4-16-05 repealed, new Section R4-16-105 adopted effective June 1, 1984 (Supp. 84-3). Section repealed effective September 22, 1995 (Supp. 95-3). New Section adopted effective January 20, 1998 (Supp. 98-1).

#### R4-16-106. Application for Licensure

- A. For purposes of this Article, unless otherwise specified:
  1. "ECFMG" means Educational Commission for Foreign Medical Graduates.
  2. "FLEX" means Federation Licensing Examination.
  3. "LMCC" means Licentiate of the Medical Council of Canada.
  4. "Medical Condition" means the following physiological, mental, or psychological conditions or disorders: (a) chronic and uncorrected orthopedic, visual, speech, or hearing impairments; (b) cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, HIV disease, or tuberculosis; or (c) specific learning disabilities, dementia, Alzheimer's, bipolar disorder, schizophrenia, paranoia, or any psychotic disorder.
  5. "SPEX" means Special Purposes Examination.

6. "USMLE" means United States Medical Licensing Examination.

- B. An applicant for licensure to practice medicine by endorsement, Step 3 of the USMLE, or by endorsement with the SPEX shall submit the following information on an application form provided by the Board:
  1. Applicant's full name, social security number, business and home addresses, business and home telephone numbers, and date and place of birth;
  2. Names of the states or provinces in which the applicant has applied for or has been granted a license or registration to practice medicine, including license number, date issued, and current status of the license;
  3. Whether the applicant has had an application for medical licensure denied or rejected by another state or province licensing board, and if so, an explanation;
  4. Whether any disciplinary or rehabilitative action has ever been taken against the applicant by another licensing board, including other health professions, and if so, an explanation;
  5. Whether any disciplinary actions, restrictions, or limitations have been taken against the applicant while participating in any type of training program or by any health care provider, and if so, an explanation;
  6. Whether the applicant has been found in violation of a statute, rule, or regulation of any domestic or foreign governmental agency, and if so, an explanation;
  7. Whether the applicant is currently under investigation by any medical board or peer review body, and if so, an explanation;
  8. Whether the applicant has ever had a medical license disciplined resulting in a revocation, suspension, limitation, restriction, probation, voluntarily surrender, cancellation during an investigation or entered into a consent agreement or stipulation, and if so, an explanation;
  9. Whether the applicant has had hospital privileges revoked, denied, suspended, or restricted, and if so, an explanation;
  10. Whether the applicant has been named as a defendant in a malpractice matter currently pending or that resulted in a settlement or judgment against the applicant, and if so, an explanation;
  11. Whether the applicant has been subjected to any regulatory disciplinary action, including censure, practice restriction, suspension, sanction, or removal from practice, imposed by any agency of the federal or state government, and if so, an explanation;
  12. Whether the applicant has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency, and if so, an explanation;
  13. Whether the applicant, within the last five years, has or had a medical condition that impairs or limits the applicant's ability to safely practice medicine, and if so, an explanation;
  14. Whether the applicant engages in the illegal use of any controlled substance, habit-forming drug, or prescription medication, and if so, an explanation;
  15. Whether the applicant has consumed intoxicating beverages resulting in the applicant's present ability to exercise the judgment and skills of a medical professional, being impaired or limited, and if so, an explanation;
  16. Whether the applicant has been found guilty or entered into a plea of no contest to a felony, or misdemeanor involving moral turpitude in any state, and if so, an explanation;

17. A complete list of the applicant's internship, residency, and fellowship training;
  18. Whether the applicant is currently certified by any of the American Board of Medical Specialties;
  19. The applicant's intended specialty;
  20. Consistent with the Board's statutory authority, other information the Board may deem necessary to fully evaluate the applicant;
  21. A photograph of passport quality no larger than 2 1/2 x 3 inches taken not more than 60 days before the date of application; and
  22. A notarized statement, signed by the applicant, verifying the truthfulness of the information provided, and that the applicant has not engaged in any acts prohibited by Arizona law or Board rules, and authorizing release of any required records or documents to complete application review.
- C.** In addition to the application form, an applicant for licensure to practice medicine by endorsement, Step 3 of the USMLE, or endorsement with the SPEX shall submit the following:
1. Certified copy of the applicant's birth certificate or passport;
  2. Certified evidence of legal name change if the applicant's legal name is different from that shown on the document submitted under subsection (B)(1);
  3. Complete list of all hospital affiliations and employment for the past five years;
  4. Verification of any medical malpractice matter currently pending or resulting in a settlement or judgment against the applicant, including a copy of the complaint and either the agreed terms of settlement or the judgment. The verification must contain the name and address of each defendant, the name and address of each plaintiff, the date and location of the occurrence which created the claim and a statement specifying the nature of the occurrence resulting in the medical malpractice action; and
  5. The fee required in A.R.S. § 32-1436.
- D.** In addition to the requirements of subsections (A) and (B), an applicant for licensure to practice medicine by endorsement, by Step 3 of the USMLE, or by endorsement with the SPEX shall have the following directly submitted to the Board:
1. The following forms must be included with the application and be completed by persons other than the applicant:
    - a. Medical College Certification,
    - b. Postgraduate Training Certification,
    - c. Clinical Instructor Certification,
    - d. ECFMG certification if applicant is an international graduate,
    - e. Federation of State Medical Boards Disciplinary Search,
    - f. American Medical Association Physician Profile, and
    - g. Verification of American Board of Medical Specialty Certification, if applicable;
  2. Examination and Board History Report scores for USMLE, FLEX, and SPEX;
  3. Verification of LMCC exam score, state written exam score, or national board exam score;
  4. Verification of licensure from every state in which the applicant has ever held a medical license; and
  5. Verification of all hospital affiliations and employment for the past five years. This must be submitted by the verifying entity on its official letterhead.

**Historical Note**

Former Rule 21. Former Section R4-16-06 repealed, new Section R4-16-106 adopted effective June 1, 1984 (Supp. 84-3). Section R4-16-106 renumbered to R4-16-102 effective September 22, 1995 (Supp. 95-3). New Section adopted by final rulemaking at 6 A.A.R. 1881, effective May 3, 2000 (Supp. 00-2).

**R4-16-107. Application for Pro Bono Registration**

- A.** An applicant for a pro bono registration to practice medicine shall submit an application on a form provided by the Board that provides the information required by R4-16-106(B).
- B.** In addition to the application, an applicant for a pro bono registration to practice medicine shall submit the following:
1. Certified copy of the applicant's medical degree diploma;
  2. Certified copies of internship, residency, or fellowship certificates;
  3. Photocopy of any current license to practice medicine in another state, territory, or possession of the United States or the District of Columbia, along with a letter from the medical board issuing the license, certifying that the license is current and in good standing;
  4. Certified copy of ECFMG certificate, if applicable;
  5. The fee required in A.R.S. § 32-1436.
- C.** In addition to the requirements of subsections (A) and (B), an applicant for pro bono registration shall have the following directly submitted to the Board:
1. American Medical Association physician profile;
  2. Federation of State Medical Boards disciplinary search; and
  3. Verification of licensure from every state in which the applicant has ever held a license.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1881, effective May 3, 2000 (Supp. 00-2).

**R4-16-108. Application for Locum Tenens Registration**

- A.** An applicant for a locum tenens registration to practice medicine shall submit an application on a form provided by the Board that provides the information required by R4-16-107(A).
- B.** In addition to the application, an applicant for a locum tenens registration to practice medicine shall submit the following:
1. Certified copy of the applicant's medical degree diploma;
  2. Certified copies of internship, residency, or fellowship certificates;
  3. A statement completed by the sponsoring Arizona-licensed physician giving the reason for the request for issuance of the registration; and
  4. Certified copy of ECFMG certificate, if applicable.
- C.** In addition to the requirements of subsections (A) and (B), an applicant for locum tenens registration shall have the following directly submitted to the Board:
1. American Medical Association physician profile;
  2. Federation of State Medical Boards disciplinary search; and
  3. Verification of licensure from every state in which the applicant has ever held a license.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1881, effective May 3, 2000 (Supp. 00-2).

**Table 1. Time-frames****Time-frames (in calendar days)**

Type of License	Overall Time-frame	Administrative Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Request for Additional Information
Initial License by Examination	240	120	365	120	90
Initial License by Endorsement	240	120	365	120	90
Locum Tenens or Pro Bono Registration	120	60	30	60	30
Temporary License	60	30	30	30	30
Teaching License	40	20	30	20	30
Educational Teaching Permit	20	10	10	10	10
Training Permit	40	20	30	20	30
Short Term Training Permit	40	20	30	20	30
One-year Training Permit	40	20	30	20	30
Registration to Dispense Controlled Substances and Prescription-only Drugs and Devices	150	45	30	105	30

**Historical Note**

Table 1 adopted effective January 20, 1998 (Supp. 98-1).

**R4-16-109. Miscellaneous Fees**

The following fees are established:

1. Application to practice allopathic medicine, \$500;
2. For issuing an initial license, \$450, which may be prorated from date of issuance to date of license renewal;
3. Two-year license renewal, \$450;
4. Reactivation of an inactive license, \$450, which may be prorated from date of reactivation to date of license renewal;
5. Application for a temporary license to practice medicine, \$200;
6. Locum tenens registration, \$200;
7. Duplicate license, \$50;
8. Annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program, \$25;
9. Annual teaching license at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$225;
10. Five-day teaching permit at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$100;
11. Copy of the annual allopathic medical directory, \$30;
12. Initial registration to dispense drugs and devices, \$200;
13. Annual renewal to dispense drugs and devices, \$100;
14. Penalty fee for late renewal of an active license, \$350;
15. Verifying a license, \$5 per request;
16. Copies of the minutes of all Board meetings during a fiscal year, \$15 per meeting;
17. Copies of records, documents, letters, minutes, applications, and files, \$1 for the first three pages and 25¢ for each additional page;
18. Sale of computerized tapes or diskettes not requiring programming, \$100; and
19. A wallet card is provided free of charge at time of licensure, additional wallet cards, \$10.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3).

**ARTICLE 2. DISPENSING OF DRUGS****R4-16-201. Registration and Renewal**

- A.** A physician who wishes to dispense a controlled substance as defined in A.R.S. § 32-1901(12), a prescription-only drug as defined in A.R.S. § 32-1901(65), or a prescription-only device as defined in A.R.S. § 32-1901(64) shall be currently licensed to practice medicine in Arizona and shall provide to the Board the following:
1. A completed registration form that includes the following information:
    - a. The physician's name, license number, and field of practice;
    - b. A list of the types of drugs and devices the physician will dispense; and
    - c. The location or locations where the physician will dispense a controlled substance, a prescription-only drug, or a prescription-only device.
  2. A copy of the physician's current Drug Enforcement Administration Certificate of Registration for each dispensing location from which the physician will dispense a controlled substance.
  3. The fees required in A.R.S. § 32-1436.
- B.** A physician shall renew a registration to dispense a controlled substance, a prescription-only drug, or a prescription-only device by complying with the requirements in subsection (A) on or before June 30 of each year. If a physician has made timely and complete application for the renewal of a registration, the physician may continue to dispense until the Board approves or denies the renewal application.
- C.** If the completed annual renewal form, all required documentation, and the fee are not received in the Board's office on or before June 30, the physician shall not dispense any controlled

substances, prescription-only drugs, or prescription-only devices until re-registered. The physician shall re-register by filing for initial registration under subsection (A) and shall not dispense a controlled substance, a prescription-only drug, or a prescription-only device until receipt of the re-registration.

#### Historical Note

Adopted effective September 22, 1995 (Supp. 95-3).  
Amended by final rulemaking at 8 A.A.R. 2319, effective  
May 9, 2002 (Supp. 02-2).

#### R4-16-202. Packaging and Inventory; Exception

- A.** A physician shall dispense all controlled substances and prescription-only drugs in prepackaged containers or in light-resistant containers with consumer safety caps, that comply with standards specified in the official compendium as defined in A.R.S. § 32-1901(49) and state and federal law, unless a patient or a patient's representative requests a non-safety cap.
- B.** All controlled substances and prescription-only drugs dispensed shall be labeled with the following information:
1. The physician's name, address, and telephone number;
  2. The date the controlled substance and prescription-only drug is dispensed;
  3. The patient's name;
  4. The controlled substance and prescription-only drug name, strength, and dosage, form, name of manufacturer, the quantity dispensed, directions for use, and any cautionary statement necessary for the safe and effective use of the controlled substance and prescription-only drug; and
  5. A beyond-use-date not to exceed one year from the date of dispensing or the manufacturer's expiration date if less than one year.
- C.** A physician shall secure all controlled substances in a locked cabinet or room and shall control access to the cabinet or room by a written procedure that includes, at a minimum, designation of the persons who have access to the cabinet or room and procedures for recording requests for access to the cabinet or room. This written procedure shall be made available on demand to the Board or its authorized representatives for inspection or copying. Prescription-only drugs shall be stored so as not to be accessible to patients.
- D.** Controlled substances and prescription-only drugs not requiring refrigeration shall be maintained in an area where the temperature does not exceed 85° F.
- E.** A physician shall maintain an ongoing dispensing log for all controlled substances and the prescription-only drug nalbuphine hydrochloride (Nubain) dispensed by the physician. The dispensing log shall include the following:
1. A separate inventory sheet for each controlled substance and prescription-only drug;
  2. The date the drug is dispensed;
  3. The patient's name;
  4. The dosage, controlled substance and prescription-only drug name, strength, dosage, form, and name of the manufacturer;
  5. The number of dosage units dispensed;
  6. A running total of each controlled substance and prescription-only drug dispensed; and
  7. The signature of the physician written next to each entry.
- F.** A physician may use a computer to maintain the dispensing log required in subsection (E) if the log is quickly accessible through either on-screen viewing or printing of a copy.
- G.** This Section does not apply to a prepackaged manufacturer sample of a controlled substance and prescription-only drug, unless otherwise provided by federal law.

#### Historical Note

Adopted effective September 22, 1995 (Supp. 95-3).  
Amended by final rulemaking at 8 A.A.R. 2319, effective  
May 9, 2002 (Supp. 02-2).

#### R4-16-203. Prescribing and Dispensing Requirements

- A.** A physician shall record on the patient's medical record the name, strength, dosage, and form, of the controlled substance, prescription-only drug, or prescription-only device dispensed, the quantity or volume dispensed, the date the controlled substance, prescription-only drug, or prescription-only device is dispensed, the medical reasons for dispensing the controlled substance, prescription-only drug, or prescription-only device, and the number of refills authorized.
- B.** Before dispensing a controlled substance, prescription-only drug, or prescription-only device to a patient, a physician shall review the prepared controlled substance, prescription-only drug, or prescription-only device to ensure that:
1. The container label and contents comply with the prescription, and
  2. The patient is informed of the name of the controlled substance, prescription-only drug, or prescription-only device, directions for use, precautions, and storage requirements.
- C.** A physician shall purchase all dispensed controlled substances, prescription-only drugs, or prescription-only devices from a manufacturer or distributor approved by the United States Food and Drug Administration, or a pharmacy holding a current permit from the Arizona Board of Pharmacy.
- D.** The person who prepares a controlled substance, prescription-only drug, or prescription-only device for dispensing shall countersign and date the original prescription form for the controlled substance, prescription-only drug, or prescription-only device.
- E.** For purposes of this Article, "dispensing" means the delivery of a controlled substance, a prescription-only drug, or a prescription-only device to a patient for use outside the physician's office.

#### Historical Note

Adopted effective September 22, 1995 (Supp. 95-3).  
Amended by final rulemaking at 8 A.A.R. 2319, effective  
May 9, 2002 (Supp. 02-2).

#### R4-16-204. Recordkeeping and Reporting Shortages

- A.** A physician who dispenses a controlled substance or prescription-only drug shall ensure that an original prescription dispensed from the physician's office is dated, consecutively numbered in the order in which it is originally dispensed, and filed separately from patient medical records. A physician shall ensure that an original prescription be maintained in three separate files, as follows:
1. Schedule II controlled substances;
  2. Schedule III, IV, and V controlled substances; and
  3. Prescription-only drugs.
- B.** A physician shall ensure that purchase orders and invoices are maintained for all controlled substances and prescription-only drugs dispensed for profit and not for profit for three years from the date of the purchase order or invoice. Purchase orders and invoices shall be maintained in three separate files as follows:
1. Schedule II controlled substances only;
  2. Schedule III, IV, and V controlled substances and nalbuphine; and
  3. All other prescription-only drugs.
- C.** A physician who discovers a theft or loss of a controlled substance or a dangerous drug, as defined in A.R.S. § 13-3401, from the physician's office shall:

1. Immediately notify the local law enforcement agency,
  2. Provide that agency with a written report, and
  3. Send a copy to the Drug Enforcement Administration and the Board within seven days of the discovery.
- D.** For purposes of this Section, controlled substances are identified, defined, or listed in A.R.S. Title 36, Chapter 27.

**Historical Note**

Adopted effective September 22, 1995 (Supp. 95-3).  
Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2).

**R4-16-205. Inspections; Denial and Revocation**

- A.** A physician shall cooperate with and allow access to the physician's office and records for periodic inspection of dispensing practices by the Board or its authorized representative. Failure to cooperate or allow access shall be grounds for revocation of a physician's registration to dispense a controlled substance, prescription-only drug, or prescription-only device or denial of renewal of the physician's dispensing registration.
- B.** Failure to comply with A.R.S. § 32-1491 or this Article constitutes grounds for denial or revocation of dispensing registration.
- C.** The Board shall revoke a physician's registration to dispense a controlled substance, prescription-only drug, or prescription-only device upon occurrence of the following:
1. Suspending, revoking, surrendering, or canceling the physician's license;
  2. Placing the physician's license on inactive status;
  3. Failing to timely renew the physician's license; or
  4. Restricting the physician's ability to prescribe or administer medication, including loss or expiration of the physician's Drug Enforcement Administration Certificate of Registration.
- D.** If the Board denies a physician's dispensing registration, the physician may appeal the decision by filing a request, in writing, with the Board, no later than 30 days after receipt of the notice denying the registration.

**Historical Note**

Adopted effective September 22, 1995 (Supp. 95-3).  
Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2).

**ARTICLE 3. MEDICAL ASSISTANTS****R4-16-301. Definitions**

For the purposes of A.R.S. Title 32, Chapter 13 and of this Chapter, unless the context otherwise requires:

"Approved medical assistant training program" means a program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP), the Accrediting Bureau of Health Education Schools (ABHES), a medical assisting program accredited by any accrediting agency recognized by the United States Department of Education, or a training program designed and offered by a licensed allopathic physician, that meets or exceeds any of these three accrediting programs, and verifies the entry level competencies of a medical assistant referenced in R4-16-303.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 751, effective February 2, 2000 (Supp. 00-1).

**R4-16-302. Medical Assistant Training Requirements**

- A.** The supervising physician or physician assistant shall ensure that a medical assistant satisfies one of the following training requirements prior to the medical assistant's employment:
1. Completion of an approved medical assistant training program.

2. Completion of an unapproved medical assistant training program and passage of the medical assistant examination administered by either the American Association of Medical Assistants or the American Medical Technologists.

**B.** This rule does not apply to any person who:

1. Prior to the effective date of these rules completed an unapproved medical assistant training program and was employed as a medical assistant since completion of the program.
2. Prior to the effective date of these rules was directly supervised by the same physician, group of physicians, or physician assistant for at least 2000 hours.
3. Completes a medical services training program of the Armed Forces of the United States.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 751, effective February 2, 2000 (Supp. 00-1).

**R4-16-303. Authorized Procedures for Medical Assistants**

- A.** A medical assistant may perform, under the direct supervision of a physician or a physician assistant, the medical procedures listed in the April 1999, Commission on Accreditation of Allied Health Education Program's, "Standards and Guidelines for an Accredited Educational Program for the Medical Assistant, Section (2)(A)(5)(a through c)." The address is 35 East Wacker Drive, Suite 1970, Chicago, Illinois 60601. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B.** In addition to the medical procedures in subsection (A), a medical assistant may administer the following under the direct supervision of a physician or physician assistant:
1. Whirlpool treatments,
  2. Diathermy treatments,
  3. Electronic galvanation stimulation treatments,
  4. Ultrasound therapy,
  5. Massage therapy,
  6. Traction treatments,
  7. Transcutaneous Nerve Stimulation unit treatments,
  8. Hot and cold pack treatments, and
  9. Small volume nebulizer treatments.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 751, effective February 2, 2000 (Supp. 00-1). Amended by final rulemaking at 6 A.A.R. 4585, effective November 14, 2000 (Supp. 00-4).

**ARTICLE 4. EXECUTIVE DIRECTOR DUTIES****R4-16-401. Interim Evaluation and Investigational Interview**

- A.** The executive director may require a physician, who is under investigation by the Board, to submit to a mental, physical, oral, or written medical competency examination after the following:
1. Reviewing the allegations and investigator's summary of findings; and
  2. Consulting with and receiving the agreement of the Board's supervising medical consultant or designee that an examination is necessary.
- B.** The executive director may request a physician to attend an investigational interview to answer questions regarding a complaint against the physician. Before issuing a request for an investigational interview, the executive director shall review the allegations and facts to determine whether an interview is necessary to provide information the Board needs to adjudicate the case. The executive director shall consult with and



receive the agreement of either the investigation supervisor or supervising medical consultant that an investigational interview is necessary before requesting one.

- C. The executive director shall report to the Board at each regularly scheduled Board meeting, a summary of the number and type of evaluations ordered and completed since the preceding Board meeting.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1).

#### R4-16-402. Direct Referral to Formal Interview

The executive director shall refer a case to a formal interview on a future Board meeting agenda, if the medical consultant in cases involving quality of care, the investigative staff, and the lead Board member concur after review of the case that a formal interview is appropriate.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3).

#### R4-16-403. Request for Inactive Status and License Cancellation

- A. If a physician requests inactive status or license cancellation and meets the requirements of A.R.S. §§ 32-1431 and 32-1433, and is not participating in the program defined under A.R.S. § 32-1452, the executive director shall grant the request.
- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the individuals granted inactive or cancelled license status since the preceding Board meeting.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3).

#### R4-16-404. Interim Consent Agreement

The executive director may enter into an interim consent agreement with a physician if there is evidence that a restriction is needed to mitigate imminent danger to the public health and safety and the investigative staff, the medical consultant, and the lead Board member concur after review of the case that a consent agreement is appropriate.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1).

#### R4-16-405. Mediated Case

- A. The executive director shall close a case resolved through mediation.
- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the physicians whose cases are resolved through mediation since the preceding Board meeting.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1).

#### R4-16-406. Referral to Formal Hearing

- A. The executive director may directly refer a case to a formal hearing if the investigative staff, the medical consultant, and

the lead Board member concur after review of the physician's case that a formal hearing is appropriate.

- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the physicians whose cases were referred to formal hearing since the preceding Board meeting and whether the referral is for revocation, suspension or is a result of an out-of-state disciplinary action, or is due to complexity of the case.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1).

#### R4-16-407. Dismissal of Complaint

- A. The executive director, with the concurrence of the investigative staff, shall dismiss a complaint if the review shows the complaint is without merit and dismissal is appropriate.
- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the physicians about whom complaints were dismissed since the preceding Board meeting.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1).

#### R4-16-408. Denial of License

- A. The executive director shall deny a license to an applicant who does not meet statutory requirements for licensure if the executive director, in consultation with the investigative staff and the medical consultant concur after reviewing the application, that the applicant does not meet the statutory requirements.
- B. The executive director shall provide to the Board at each regularly scheduled Board meeting a list of the physicians whose applications were denied since the preceding Board meeting.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1).

#### R4-16-409. Non-disciplinary Consent Agreement

The executive director may enter into a consent agreement under A.R.S. § 32-1451(F) with a physician to limit the physician's practice or rehabilitate the physician if there is evidence that a licensee is mentally or physically unable to safely engage in the practice of medicine and the investigative staff, the medical consultant, and the lead Board member concur after review of the case that a consent agreement is appropriate.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3).

#### R4-16-410. Appealing Executive Director Actions

- A. Any person aggrieved by an action taken by the executive director may appeal that action to the Board. The aggrieved person shall file a written request to the Board:
1. Thirty days after notification of the action, if personally served; or
  2. Thirty-five days after the date on the notification, if mailed.
- B. The aggrieved person shall provide, in the written request, evidence showing:
1. An irregularity in the investigative process or the executive director's review deprived the party of a fair decision; or

2. Misconduct by Board staff, a Board consultant, or the executive director that deprived the party of a fair decision; or
  3. Material evidence newly discovered that could have a bearing on the decision and that, with reasonable diligence, could not have been discovered and produced earlier.
- C.** The fact that the aggrieved party does not agree with the final decision is not grounds for a review by the Board.
- D.** If an aggrieved person fails to submit a written request within the time specified in subsection (A), the Board is relieved of the requirement to review actions taken by the executive director. The executive director may, however, evaluate newly provided information that is material or substantial in content to determine whether the Board should review the case.
- E.** If a written request is submitted that meets the requirements of subsection (B):
1. The Board shall consider the written request at its next regularly scheduled meeting.
  2. If the written request provides new material or substantial evidence that requires additional investigation, the investigation shall be conducted as expeditiously as possible and the case shall be forwarded to the Board at the first possible regularly scheduled meeting.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 830, February 7, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 4270, effective November 18, 2002 (Supp. 02-3).

### ARTICLE 5. DISCIPLINARY ACTIONS

*Article 5, consisting of Sections R4-16-501 through R4-16-505, made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2).*

#### R4-16-501. Intent

The intent of these disciplinary rules is to provide the public and licensees with insight into how the Arizona Medical Board ("Board") determines whether there will be discipline and what the discipline will be. The Board has adopted Substantive Policy Statement No. 9, Explanation of Board Actions and Overview of Complaint Categories, which explains Board actions and provides an overview of complaint categories.

#### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2).

#### R4-16-502. Application

When the Board finds that a physician committed an act of unprofessional conduct the Board will then decide if the conduct rises to the level of discipline or merits a non-disciplinary action. Once the Board makes this determination, it will apply the rules contained in this Article and consider the aggravating and mitigating factors and the nature of the complaint. Because of factual circumstances, greater or lesser discipline than that listed in rule may be imposed in a particular case. Cases involving the same issue or conduct may not result in the same discipline because of aggravating and mitigating factors and factual differences in the cases.

#### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2).

**Editor's Note:** At the time of publication, A.R.S. § 32-1401(26) (referenced below) was A.R.S. § 32-1401(24). Laws 2003, Ch. 59, § 1, effective 90 days after the close of the First Reg-

ular Session of the Forty-sixth Legislature, will change the subparagraph citation to A.R.S. § 32-1401(26) (Supp. 03-2).

#### R4-16-503. Acts of Unprofessional Conduct

A physician commits an act of unprofessional conduct when the physician violates one or more subparagraphs of A.R.S. § 32-1401(26). These statutory violations are referenced under the categories that follow.

1. "Violations of Law" include those actions or omissions that violate A.R.S. § 32-1401(26)(a), (d), or (s).
  - a. A one-time offense may result in either a Letter of Reprimand or Decree of Censure, the latter penalty for serious violations. Either may include probation.
  - b. Repetitive, egregious, or non-remediable offenses may result in Suspension, Revocation, or a Request for Voluntary Surrender of License.
2. "False Representations" include those actions or omissions that violate A.R.S. § 32-1401(26)(m), (t), (v), (aa), (bb), (jj), (mm), or (qq).
  - a. A one-time offense may result in either a Letter of Reprimand or Decree of Censure, the latter penalty for serious violations. Either may include probation.
  - b. Repetitive, egregious, or non-remediable offenses may result in Suspension, Revocation, or a Request for Voluntary Surrender of License.
3. "Fee Issues" include those actions or omissions that violate A.R.S. § 32-1401(26)(u), (v), or (w).
  - a. A one-time offense may result in either a Letter of Reprimand or Decree of Censure, the latter penalty for serious violations. Either may include probation.
  - b. Repetitive, egregious, or non-remediable offenses may result in Suspension, Revocation, or a Request for Voluntary Surrender of License.
4. "Sexual Conduct with Patient" includes those actions or omissions that violate A.R.S. § 32-1401(26)(z).
  - a. A one-time offense may result in either a Letter of Reprimand or Decree of Censure, the latter penalty for serious violations. Either may include probation.
  - b. Repetitive, egregious, or non-remediable offenses may result in Suspension, Revocation, or a Request for Voluntary Surrender of License.
5. "Failure to Comply with a Board Investigation" includes those actions or omissions that violate A.R.S. § 32-1401(26)(n), (dd), or (ee).
  - a. A one-time offense may result in either a Letter of Reprimand or Decree of Censure, the latter penalty for serious violations. Either may include probation.
  - b. Repetitive, egregious, or non-remediable offenses may result in Suspension, Revocation, or a Request for Voluntary Surrender of License.
6. "Failing to Disclose a Financial Connection" includes those actions or omissions that violate A.R.S. § 32-1401(26)(ff).
  - a. A one-time offense may result in either a Letter of Reprimand or Decree of Censure, the latter penalty for serious violations. Either may include probation.
  - b. Repetitive, egregious, or non-remediable offenses may result in Suspension, Revocation, or a Request for Voluntary Surrender of License.
7. "Failing to Report Unprofessional Conduct" includes those actions or omissions that violate A.R.S. § 32-1401(26)(oo), or (pp).
  - a. A one-time offense may result in either a Letter of Reprimand or Decree of Censure, the latter penalty for serious violations. Either may include probation.

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- b. Repetitive, egregious, or non-remediable offenses may result in Suspension, Revocation, or a Request for Voluntary Surrender of License.
- 8. "Prescribing Violations" include those actions or omissions that violate A.R.S. § 32-1401(26)(h), (i), (j), (k), (hh), (kk), or (ss).
  - a. A one-time offense may result in a Letter of Reprimand or Decree of Censure, the latter penalty for serious violations. Either may include Probation.
  - b. Repetitive or egregious offenses may result in Decree of Censure, possibly with Probation, or Suspension, Revocation, or a request for Voluntary Surrender of License.
- 9. "False Advertising" includes those actions or omissions that violate A.R.S. § 32-1401(26)(c).
  - a. A one-time occurrence of a minor nature may be issued an advisory letter.
  - b. Repetitive, egregious, or non-remediable offenses may result in a minimum penalty of a Letter of Reprimand.
- 10. "Medical Records Issues" includes those actions or omissions that violate A.R.S. § 32-1401(26)(e), or (rr).
  - a. A one-time occurrence of a minor nature that does not depart from the standard of care may be issued an Advisory Letter.
  - b. Repetitive, egregious, or non-remediable offenses may result in a minimum penalty of Letter of Reprimand.
- 11. "Violations of Board Orders" includes those actions or omissions that violate A.R.S. § 32-1401(26)(r), or (nn).
  - a. A one-time offense may result in a minimum penalty of a Letter of Reprimand.
  - b. Repetitive or egregious offenses may result in a Decree of Censure with Probation, or Suspension, Summary Suspension, and/or Revocation.
- 12. "Actions Taken by Other Entities Against a Physician's License" includes those actions listed in A.R.S. § 32-1401(26)(o), or (p).
  - a. A one-time occurrence of a minor nature that does not depart from the standard of care may be issued an Advisory Letter.
  - b. Repetitive or egregious offenses may result in a minimum penalty of a Letter of Reprimand.
- 13. "Intentionally Disclosing Privileged Information" includes those actions or omissions that violate A.R.S. § 32-1401(26)(b).
  - a. A one-time occurrence of a minor nature that does not depart from the standard of care may be issued an Advisory Letter.
  - b. Repetitive or egregious offenses may result in a minimum penalty of a Letter of Reprimand.
- 14. "Connection with, or Enhancing Activities of, Illegal Practitioner or Medicine" includes those actions or omissions that violate A.R.S. § 32-1401(26)(cc).
  - a. A one-time offense may result in either a Letter of Reprimand or Decree of Censure, the latter penalty for serious violations. Either may include probation.
  - b. Repetitive, egregious, or non-remediable offenses may result in Suspension, Revocation, or a Request for Voluntary Surrender of License.
- 15. "Use of Chelation Therapy Outside Scope of Statute" includes those actions or omissions that violate A.R.S. § 32-1401(26)(gg).
  - a. A one-time occurrence of a minor nature that does not depart from the standard of care may be issued an Advisory Letter.
- b. Repetitive or egregious offenses may result in a minimum penalty of a Letter of Reprimand.
- 16. "Use of Experimental Forms of Diagnosis and Treatment Outside Scope of Statute and Fetal Experiments in Violation of A.R.S. § 36-2302" includes those actions or omissions that violate A.R.S. § 32-1401(26)(y) or (x).
  - a. A one-time occurrence may result in Probation with a provision for remedial training or an Advisory Letter if the Physician appears to be otherwise competent and there are no aggravating factors.
  - b. Repetitive or egregious offenses may result in a Letter of Reprimand or a Decree of Censure with Probation. Offenses that are not, or are unlikely to be remediated, may result in Suspension or Revocation.
- 17. "Improper Direction of Licensed, Certified, or Registered Healthcare Providers" includes those actions or omissions that violate A.R.S. § 32-1401(26)(ii).
  - a. A one-time occurrence may result in Probation with a provision for remedial training or an Advisory Letter if the Physician appears to be otherwise competent and there are no aggravating factors.
  - b. Repetitive or egregious offenses may result in a Letter of Reprimand or a Decree of Censure with Probation. Offenses that are not, or are unlikely to be remediated, may result in Suspension or Revocation.
- 18. "Departures from the Standard of Care" includes those actions or omissions that violate A.R.S. § 32-1401(26)(l), (q), or (ll).
  - a. Technical Errors:
    - i. When there has been a technical error, the Board may consider the following factors:
      - (1) Whether the procedure was otherwise performed within the standard of care;
      - (2) Whether the complication that occurred is a complication that is documented to occur when the procedure is otherwise competently performed;
      - (3) Whether the complication was recognized in a timely fashion and then treated appropriately;
      - (4) Whether the patient and/or the patient's family was informed of the complication/error in a timely fashion; and
      - (5) Whether the proper informed consent was obtained from the patient prior to the procedure or surgery.
    - ii. A one-time technical error that answers the above questions in the affirmative may be adjudicated with an Advisory Letter to trend the specific error.
    - iii. A one-time technical error that does not answer the above questions in the affirmative may result in a Letter of Reprimand or a Decree of Censure.
    - iv. Repetitive or egregious technical errors may result in a Letter of Reprimand, Decree of Censure, Probation, Suspension, or Revocation, or any combination, depending on severity, frequency, the potential for remediation, and other aggravating circumstances. The Board may also consider instituting emergency proceedings to restrict an area of a physician's practice that is in question.
  - b. System Errors:

- i. A one-time occurrence that is isolated and is not egregious may not typically rise to the level of discipline and may warrant an Advisory Letter to trend the complaint.
- ii. Repetitive or egregious offenses may result in Probation with remediation measures and may also result in a Letter of Reprimand or a Decree of Censure.
- c. Departures Caused by Cognitive Issues Involving the Physician:
  - i. A one-time occurrence may warrant an Advisory Letter to trend the complaint if the physician appears to be otherwise careful and competent and there are no aggravating factors or may result in Probation with a provision for remedial training.
  - ii. Repetitive or egregious offenses may result in a Letter of Reprimand or a Decree of Censure with Probation. Offenses that are not, or are unlikely to be remediated, may result in Suspension or Revocation.
- d. Departures Caused by Physical or Mental Health Issues and the Physician Will Not Agree to Voluntarily Enter Treatment:
  - i. A one-time offense may be resolved with Probation if the physical or mental health issue is treatable and remediable.
  - ii. Repetitive or egregious offenses involving a physical or mental health issue that is unlikely to be remediated may result in Suspension, Revocation or Voluntary Surrender of License.
- 19. "Departures from the Standard of Care Caused by Chemical Dependency or Substance Abuse" includes those actions or omissions that violate A.R.S. § 32-1401(26)(f) or (g).
  - a. A one-time offense may be resolved with Probation. A violation with a significant departure from the standard of care may result in a minimum of a Letter of Reprimand and Probation.
  - b. Repetitive or egregious offenses may result in a minimum of Decree of Censure and Probation. Suspension or Revocation may be appropriate in some cases.

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#### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2).

#### **R4-16-504. Aggravating Factors Considered in Disciplinary Actions**

When determining the degree of discipline, the Board may consider certain factors including, but not limited to, the following:

1. Prior disciplinary offenses;
2. Dishonest or selfish motive;
3. Pattern of misconduct; multiple offenses;
4. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the Board;
5. Submission of false evidence, false statements, or other deceptive practices during the investigative or disciplinary process;
6. Refusal to acknowledge wrongful nature of conduct; and
7. Vulnerability of the victim.

#### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2).

#### **R4-16-505. Mitigating Factors Considered in Disciplinary Actions**

When determining the degree of discipline, the Board may consider certain factors including, but not limited to, the following:

1. Absence of prior disciplinary record;
2. Absence of dishonest or selfish motive;
3. Timely good faith effort to rectify consequences of misconduct;
4. Interim rehabilitation;
5. Remoteness of prior offenses; and
6. How much control the physician has of processes in the specific practice setting.

#### Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 2274, effective August 12, 2003 (Supp. 03-2).